

**Allen, Dyer, Doppelt,
Milbrath & Gilchrist, P.A.**

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FACSIMILE COVER SHEET

TO: Examiner Clara I. Yang - United States Patent and Trademark Office; Art Unit - 2612

CLIENT NAME/NUMBER: 58090

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FROM: Jack G. Abid

DATE: September 20, 2006

NUMBER OF PAGES (INCLUDING COVER SHEET): 25

COMMENTS/INSTRUCTIONS:

Please see attached Appeal Brief for U.S. Patent Application Serial No. 10/043,077.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALSRECEIVED
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In re Patent Application of:)
FLICK) Examiner: C. YANG
)
Serial No. 10/043,077) Art Unit: 2612
Confirmation No. 6614)
Filing Date: JANUARY 9, 2002) Attorney Docket No. 58090
)
For: VEHICLE CONTROL SYSTEM FOR A)
VEHICLE DATA COMMUNICATIONS)
BUS AND HAVING VERIFICATION)
FEATURES)

APPELLANT'S APPEAL BRIEF

MS Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is Appellant's Appeal Brief together with the requisite \$250.00 small entity fee for filing a brief. If any additional extension and/or fee is required, authorization is given to charge Deposit Account No. 01-0484.

(1) Real Party in Interest

The real party in interest is Omega Patents, L.L.C., assignee of the present application as recorded on August 12, 2002 at reel 013138, frame 0919.

(2) Related Appeals and Interferences

At present there are no related appeals or interferences.

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(3) Status of the Claims

Claims 18-23, 30-45 and 57-67 are pending in the application. All claims stand rejected and are appealed herein.

(4) Status of the Amendments

All amendments have been entered and there are no further pending amendments. A copy of the claims involved in this appeal is attached hereto as Appendix A.

(5) Summary of the Claimed Subject Matter

Independent Claim 18 is directed to a vehicle control system 10 for a vehicle including a vehicle data communications bus 11 extending throughout the vehicle, and a vehicle indicator 26a-26f connected thereto. The vehicle control system 10 includes at least one uniquely coded transmitter 15a, 15b to be carried by a user, a receiver 20 at the vehicle for receiving signals from the at least one uniquely coded transmitter, and a controller 21 at the vehicle spaced apart from the vehicle indicator 26a-26f and cooperating with the receiver and the vehicle data communications bus 11. The controller 21 is for learning the at least one uniquely coded transmitter 15a, 15b to permit control of a vehicle function by the user, communicating with the vehicle indicator 26a-26f via the data communications bus 11 to cause an indication of whether at least one new uniquely coded transmitter has been learned, and causing an indication of a number of learned uniquely coded transmitters.

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See page 9, line 13 through page 11, line 26, and Figure 1 reproduced below.

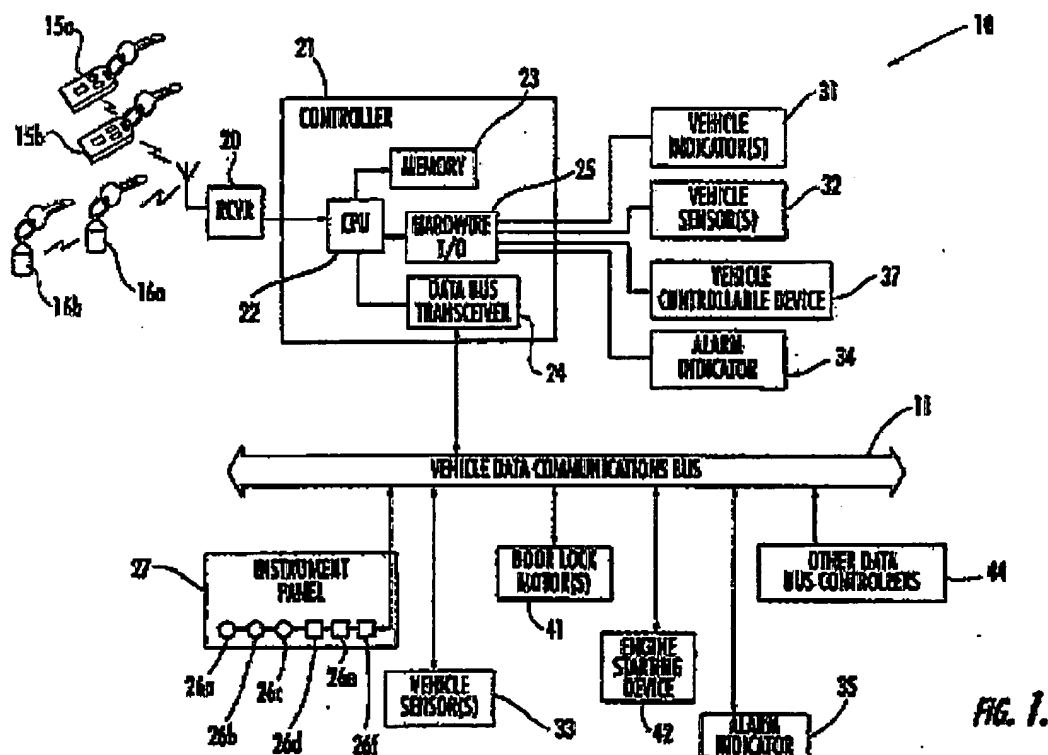


Figure 1 of the present application

Independent Claim 30 is directed to a vehicle control system 10' for a vehicle including a vehicle data communications bus 11' extending throughout the vehicle, and at least one vehicle device 27', 33', 41', 42', 35', and 44' connected thereto. The vehicle control system 10' includes a biometric characteristic sensor 50 for sensing an unique biometric

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characteristic of an user, and a controller 21' at the vehicle spaced apart from the at least one vehicle device 27', 33', 41', 42', 35', and 44' and cooperating with the biometric characteristic sensor and the vehicle data communications bus 11'. The controller 21' is for communicating with the at least one vehicle device 27', 33', 41', 42', 35', and 44' via the data communications bus 11', learning the unique biometric characteristic to permit control of a vehicle function by the user, and causing an indication of whether at least one new unique biometric characteristic has been learned. Independent Claim 57 is a method counterpart to Claim 30 and includes similar recitations. See page 14, line 13-30, and Figure 2 reproduced below.

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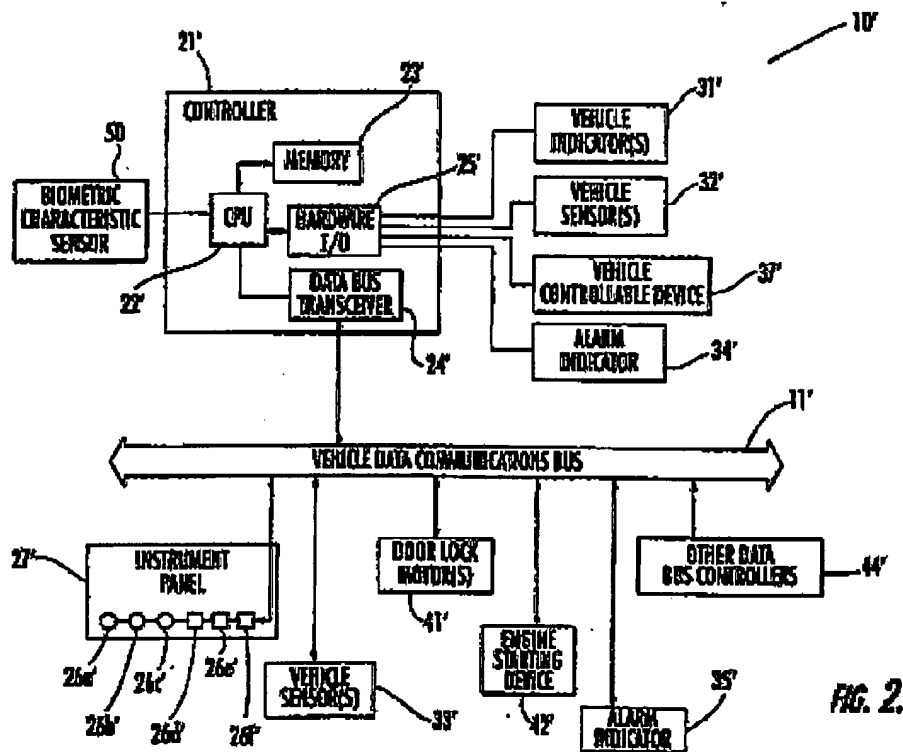


Figure 2 of the present application

(6) Grounds of Rejection to be Reviewed On Appeal

Claims 18-20 and 23 stand rejected under 35 U.S.C. § 103(a) over Ogino et al. (U.S. Patent No. 6,100,792) in view of Flick (U.S. Patent No. 5,986,571). Claims 21 and 22 stand rejected under 35 U.S.C. § 103(a) over Ogino et al. (U.S. Patent No. 6,100,792) in view of Flick (U.S. Patent No. 5,986,571) and Flick (U.S. Patent No. 6,011,460). Claims 30-39, 42, 43, 45, and 57-66 stand rejected under 35 U.S.C. § 103(a) over Anzai et al.

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(U.S. Patent No. 6,271,745) in view of Flick (U.S. Patent No. 6,011,460). Claims 40, 41, 44, and 67 stand rejected under 35 U.S.C. § 103(a) over Anzai et al. (U.S. Patent No. 6,271,745) in view of Flick (U.S. Patent No. 5,986,571) and Flick (U.S. Patent No. 6,011,460).

(7) Argument

A. Claims 18-23 Are Patentable

The Examiner rejected independent Claim 18 under 35 U.S.C. § 103(a) over Ogino et al. (U.S. Patent No. 6,100,792) in view of Flick (U.S. Patent No. 5,986,571). The Flick '571 patent discloses a building security system 10 comprising indicators 24 that can indicate the number of learned remote transmitters 50. (Col. 5, lines 6-10). The Examiner correctly notes that the Ogino et al. patent fails to disclose a controller for causing an indication of a number of learned uniquely coded transmitters, and looks to the Flick '571 patent to provide such. Figures 1 and 2 of the Flick '571 patent are reproduced below.

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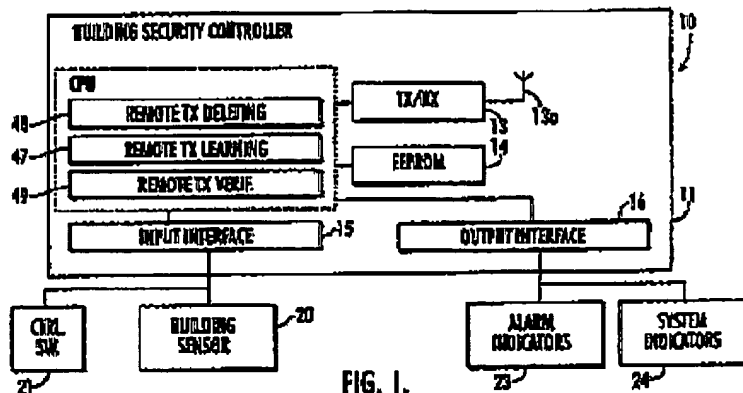


Figure 1 of the '571 Flick patent

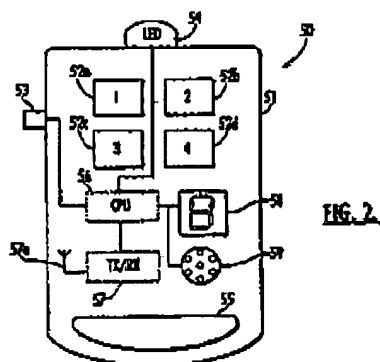


Figure 2 of the '571 Flick patent

The Examiner contends that the Ogino et al. patent discloses a plurality of remote unit 11 ID codes individually learned by a single car security unit 10 and Flick '571 discloses a plurality of coded remote transmitters 50 learned by a single controller 11, and thus it would have been obvious to modify the security unit 10 to indicate a number of learned remote

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transmitters. Thus, the Examiner contends that a proper motivation to modify the security unit 10 to indicate a number of learned remote transmitters arises from comparing the number of remote units and security units between the references, and disregards the stated objectives of each reference. While the Examiner does cite to Christenson (U.S. Patent No. 5,933,090) for the contention that the Ogino et al. patent and the Flick '571 patent are "analogous," the Christenson patent discloses a receiver for storing a transmitter ID code and fails to disclose a controller for causing an indication of a number of learned remote transmitters, and thus does not provide a proper motivation to make the suggested combination. (Col. 2, lines 12-26). Figure 3 of the Ogino et al. patent is reproduced below.

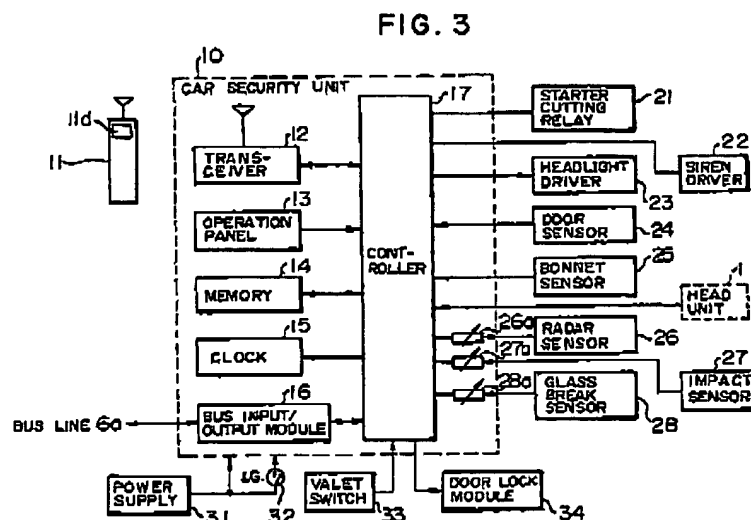


Figure 3 of the Ogino et al. patent

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The Ogino et al. patent proposes a vehicle security apparatus for transmitting the respective vehicle number to a remote unit display when the inputted remote unit vehicle number does not match the respective vehicle number, but the remote unit ID code matches the ID code learned by the respective vehicle security apparatus. (Col. 17, lines 26-35).

The Flick '571 patent discloses a building security system 10 to address the problem of a would-be-thief causing an alarm controller to enter an unauthorized learning mode without the owner's knowledge, after which the thief may use a new learned transmitter to disarm the system. (Col. 1, lines 40-48). In furtherance of protecting against unauthorized learning of a remote transmitter, a remote transmitter number indicating means causes the indication of a number of learned uniquely coded transmitters. (Column 2, lines 23-26). This is similar to the Flick '688 patent (U.S. Patent No. 5,654,688) directed to displaying a number of coded transmitters in a vehicle security system.

The Examiner suggests that it would have been obvious to one of ordinary skill in the art to modify the security control unit 10 of the Ogino et al. patent as taught by the Flick '571 patent to cause indication of a number of learned uniquely coded transmitters. The Ogino et al. patent teaches learning a remote unit ID code for subsequently outputting a stored vehicle number so to avoid the need to manually recall vehicle numbers when the remote unit ID code matches the learned ID code. The

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Ogino et al. patent does not teach or suggest any indicator for the unauthorized learning of remote unit ID codes or any device to combat the unauthorized learning of remote ID codes. It is respectfully submitted that one of ordinary skill in the art at the time of the present invention would not make the suggested combination, as an indication of a number of learned ID codes does not further the objective of outputting the stored vehicle number when a remote ID code matches a learned ID code. This objective merely teaches that the ID code is learned, not that an unauthorized learning or greater than a threshold number has not taken place. As such, there can be no proper motivation or suggestion to combine the references as the Examiner proposes, and the rejection of the above-noted independent claim should be overturned for this reason.

Accordingly, independent Claim 18 is patentable. Its dependent claims, which recite yet further distinguishing features of the invention, are also patentable, and require no further discussion.

B. Claims 30-45 And 57-67 Are Patentable

The Examiner rejected independent Claims 30 and 57 under 35 U.S.C. § 103(a) over Anzai et al. (U.S. Patent No. 6,271,745) in view of Flick (U.S. Patent No. 6,011,460). The Anzai et al. patent discloses a biometric authorization system for a vehicle that includes an enrollment mode. (Col. 2, lines 39-47). The Flick '460 patent discloses a vehicle security system including a remote transmitter in communication with a

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plurality of vehicle devices, and the vehicle devices communicate with a controller over a vehicle data communications bus, (Col. 4, line 51 : col. 5, line 31). The Examiner correctly notes that the Anzai et al. patent fails to disclose a data communications bus extending throughout the vehicle, a controller communicating over the data communications bus to vehicle devices, and a vehicle alarm indicator, and looks to the Flick '460 patent to provide such.

The Examiner contends that one of ordinary skill in the art would have made the suggested combination, based solely upon the Flick '460 teaching of the advantages of using a data communications bus. Accordingly, the Examiner fails to provide a proper motivation for replacing the hardwire connections of the Anzai et al. patent used toward its objective of providing a keyless vehicle operation identification system with a data communications bus. Thus, one of ordinary skill in the art would not be motivated to make the suggested combination, particularly since supplementing the Anzai et al. patent's system with a data communications bus so to reduce wiring does not further its objective of providing a keyless identification system. Accordingly, it appears that the Examiner is impermissibly using the Applicant's own specification as a template for piecing together the disjoint teachings of the prior art. Therefore, the rejection of the above-noted independent claims should be overturned for this reason.

Accordingly, independent Claims 30 and 57 are patentable. Their dependent claims, which recite yet further

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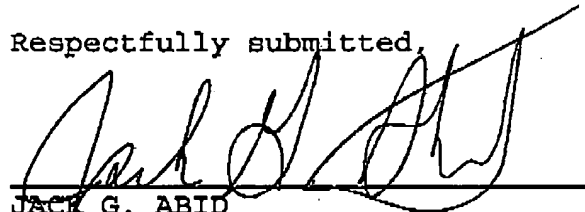
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distinguishing features, are also patentable over the prior art and require no further discussion herein.

CONCLUSIONS

In view of the foregoing arguments, it is submitted that all of the claims are patentable over the prior art. Accordingly, the Board of Patent Appeals and Interferences is respectfully requested to reverse the earlier unfavorable decision by the Examiner.

Respectfully submitted,



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APPENDIX A - CLAIMS ON APPEAL
FOR U.S. PATENT APPLICATION SERIAL NO. 10/043,077

18. A vehicle control system for a vehicle comprising a vehicle data communications bus extending throughout the vehicle, and a vehicle indicator connected thereto, the vehicle control system comprising:

at least one uniquely coded transmitter to be carried by a user;

a receiver at the vehicle for receiving signals from said at least one uniquely coded transmitter; and

a controller at the vehicle spaced apart from the vehicle indicator and cooperating with said receiver and the vehicle data communications bus for

learning the at least one uniquely coded transmitter to permit control of a vehicle function by the user,

communicating with the vehicle indicator via said data communications bus to cause an indication of whether at least one new uniquely coded transmitter has been learned, and

causing an indication of a number of learned uniquely coded transmitters.

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19. A vehicle control system according to Claim 18 wherein the vehicle indicator comprises at least one of a light, a visual display, a vibration transducer, a speech message generator, and an audible signal generator.

20. A vehicle control system according to Claim 18 wherein the vehicle further comprises an instrument panel carrying the vehicle indicator.

21. A vehicle control system according to Claim 18 wherein the vehicle further comprises a vehicle sensor; and wherein said controller communicates with the vehicle sensor via the vehicle data communications bus.

22. A vehicle control system according to Claim 18 wherein the vehicle further comprises a vehicle alarm indicator; and wherein said controller communicates with the vehicle alarm indicator via the vehicle data communications bus.

23. A vehicle control system according to Claim 18 wherein the vehicle further comprises a controllable vehicle device; and wherein said controller communicates with the controllable vehicle device via the vehicle data communications bus.

30. A vehicle control system for a vehicle comprising a vehicle data communications bus extending throughout the

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vehicle, and at least one vehicle device connected thereto, the vehicle control system comprising:

a biometric characteristic sensor for sensing a unique biometric characteristic of a user; and

a controller at the vehicle spaced apart from the at least one vehicle device and cooperating with said biometric characteristic sensor and the vehicle data communications bus for

communicating with the at least one vehicle device via the data communications bus,

learning the unique biometric characteristic to permit control of a vehicle function by the user, and

causing an indication of whether at least one new unique biometric characteristic has been learned.

31. A vehicle control system according to Claim 30 wherein the at least one vehicle device comprises a vehicle indicator; and wherein said controller communicates with the vehicle indicator via the vehicle data communications bus to cause the indication of whether at least one new unique biometric characteristic has been learned.

32. A vehicle control system according to Claim 31 wherein the vehicle indicator comprises at least one of a light, a visual display, a vibration transducer, a speech message generator, and an audible signal generator.

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33. A vehicle control system according to Claim 31 wherein the vehicle comprises an instrument panel carrying the vehicle indicator.

34. A vehicle control system according to Claim 30 wherein the at least one vehicle device comprises a vehicle sensor; and wherein said controller communicates with the vehicle sensor via the vehicle data communications bus.

35. A vehicle control system according to Claim 30 wherein the at least one vehicle device comprises a vehicle alarm indicator; and wherein said controller communicates with the vehicle alarm indicator via the vehicle data communications bus.

36. A vehicle control system according to Claim 30 wherein the at least one vehicle device comprises a controllable vehicle device; and wherein said controller communicates with the controllable vehicle device via the vehicle data communications bus.

37. A vehicle control system according to Claim 36 wherein the controllable vehicle device is associated with starting of a vehicle engine.

38. A vehicle control system according to Claim 36 wherein the controllable vehicle device is associated with vehicle door locks.

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39. A vehicle control system according to Claim 30 wherein said controller is switchable to a learning mode to permit learning of a new unique biometric characteristic; and wherein said controller causes an indication that the learning mode has been entered.

40. A vehicle control system according to Claim 39 wherein said controller causes an indication when the learning mode has last been entered.

41. A vehicle control system according to Claim 39 wherein said controller causes an indication for progressively indicating a passage of time since the learning mode has last been entered.

42. A vehicle control system according to Claim 30 wherein said controller causes an indication of a number of learned unique biometric characteristics.

43. A vehicle control system according to Claim 30 wherein said controller causes an indication of a change in a number of learned unique biometric characteristics.

44. A vehicle control system according to Claim 30 wherein said controller causes an indication of a change in a learned unique biometric characteristic.

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45. A vehicle control system according to Claim 30 wherein said biometric sensor comprises at least one of a fingerprint sensor, a voice pattern sensor, a facial pattern sensor, a skin pattern sensor, a hand pattern sensor, a venous pattern sensor and a retinal pattern sensor.

57. A vehicle control method for a vehicle comprising a vehicle data communications bus extending throughout the vehicle, and at least one vehicle device connected thereto, the method comprising:

sensing a unique biometric characteristic of a user from a biometric characteristic sensor; and

using a controller at the vehicle spaced apart from the at least one vehicle device and cooperating with the biometric characteristic sensor and the vehicle data communications bus for

communicating with the at least one vehicle device via the data communications bus,

learning the unique biometric characteristic to permit control of a vehicle function by the user, and

causing an indication of whether at least one new unique biometric characteristic has been learned.

58. A method according to Claim 57 wherein the at least one vehicle device comprises a vehicle indicator; and wherein said controller communicates with the vehicle indicator

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via the vehicle data communications bus to cause the indication of whether at least one new unique biometric characteristic has been learned.

59. A method according to Claim 58 wherein the vehicle indicator comprises at least one of a light, a visual display, a vibration transducer, a speech message generator, and an audible signal generator.

60. A method according to Claim 58 wherein the vehicle further comprises an instrument panel carrying the vehicle indicator.

61. A method according to Claim 57 wherein the at least one vehicle device comprises a vehicle sensor; and wherein said controller communicates with the vehicle sensor via the vehicle data communications bus.

62. A method according to Claim 57 wherein the at least one vehicle device comprises a vehicle alarm indicator; and wherein said controller communicates with the vehicle alarm indicator via the vehicle data communications bus.

63. A method according to Claim 57 wherein the at least one vehicle device comprises a controllable vehicle device; and wherein said controller communicates with the controllable vehicle device via the vehicle data communications bus.

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64. A method according to Claim 57 wherein said controller is switchable to a learning mode to permit learning of a new unique biometric characteristic; and wherein said controller causes an indication that the learning mode has been entered.

65. A method according to Claim 57 wherein said controller causes an indication of a number of learned unique biometric characteristics.

66. A method according to Claim 57 wherein said controller causes an indication of a change in a number of learned unique biometric characteristics.

67. A method according to Claim 57 wherein said controller causes an indication of a change in a learned unique biometric characteristic.

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APPENDIX B - EVIDENCE APPENDIX
PURSUANT TO 37 C.F.R. § 41.37(c)(1)(ix)

None.

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APPENDIX C - RELATED PROCEEDINGS APPENDIX
PURSUANT TO 37 C.F.R. § 41.37(c)(1)(x)

None.